

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 106

March 16, 1995, 2:16 p.m.
Page S-4034 Temp. Record

DOD SUPPLEMENTAL/Rescission re/ Endangered Species Act

SUBJECT: Department of Defense Emergency Supplemental Appropriations Bill for fiscal year 1995 . . . H.R. 889.
Baucus motion to table the Hutchison amendment No. 336.

ACTION: MOTION TO TABLE FAILED, 38-60

SYNOPSIS: As reported, H.R. 889, the Department of Defense Emergency Supplemental Appropriation Bill for fiscal year 1995, will appropriate \$1.94 billion to cover the costs of unbudgeted Department of Defense (DoD) contingencies, and will rescind \$1.96 billion in defense appropriations (mostly from the DoD) to offset the cost. Additionally the bill will rescind \$1.54 billion from nondefense accounts and will recommend that the savings be used for deficit reduction. (President Clinton requested \$2.54 billion in "emergency" funding, which would allow the spending to be added to the debt instead of being fully offset. The President requested only \$332 million in offsets.)

The Hutchison amendment would rescind \$1.5 million from the amounts available in fiscal year 1995 for determining whether a species is a threatened or endangered species and whether habitat is critical habitat under the Endangered Species Act. Additionally, the amendment would bar the use of any appropriated funds to make a final determination that a species is threatened or endangered or that habitat constitutes critical habitat (except for a final determination that a species previously determined to be endangered is no longer endangered but continues to be threatened). Finally, the amendment would invalidate any court orders requiring the listing of a number of species or habitats by a date certain if that listing would be made impracticable by the rescission in this amendment.

Debate was limited by unanimous consent. Following debate, Senator Baucus moved to table the Hutchison amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

Those favoring the motion to table contended:

The Hutchison amendment would stop the Endangered Species Act in its tracks. Whether one believes that this Act is flawed or not it would be a mistake to take this action. If the Federal Government is forbidden to take action to protect species that it finds are

(See other side)

YEAS (38)		NAYS (60)			NOT VOTING (2)	
Republicans (0 or 0%)	Democrats (38 or 86%)	Republicans (54 or 100%)	Democrats (6 or 14%)		Republicans (0)	Democrats (2)
Akaka	Kerrey	Abraham	Hutchison	Breaux		Bradley- ²
Baucus	Kerry	Ashcroft	Inhofe	Conrad		Mikulski- ²
Biden	Kohl	Bennett	Jeffords	Dorgan		
Bingaman	Lautenberg	Bond	Kassebaum	Exon		
Boxer	Leahy	Brown	Kempthorne	Feinstein		
Bryan	Levin	Burns	Kyl	Ford		
Bumpers	Lieberman	Campbell	Lott			
Byrd	Moseley-Braun	Chafee	Lugar			
Daschle	Moynihan	Coats	Mack			
Dodd	Murray	Cochran	McCain			
Feingold	Nunn	Cohen	McConnell			
Glenn	Pell	Coverdell	Murkowski			
Graham	Pryor	Craig	Nickles			
Harkin	Reid	D'Amato	Packwood			
Heflin	Robb	DeWine	Pressler			
Hollings	Rockefeller	Dole	Roth			
Inouye	Sarbanes	Domenici	Santorum			
Johnston	Simon	Faircloth	Shelby			
Kennedy	Wellstone	Frist	Simpson			
		Gorton	Smith			
		Gramm	Snowe			
		Grams	Specter			
		Grassley	Stevens			
		Gregg	Thomas			
		Hatch	Thompson			
		Hatfield	Thurmond			
		Helms	Warner			

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

on the brink of extinction, some of those species will be lost forever. The populations of others will decline dramatically. Americans do not favor such losses. A recent poll has shown that 77 percent of Americans want to maintain or strengthen, not weaken, the Endangered Species Act. Some of us do believe that problems exist. More efforts need to be made to ensure that the least disruptive means of preserving species are chosen. The costs to property owners of actions to protect species especially must be given greater consideration. The answer, though, is not to abandon the Endangered Species Act, but to improve it.

Just two days ago a subcommittee of the Environment Committee held a hearing on legislation to put a moratorium on additions to the list of species protected by the Endangered Species Act until the end of this fiscal year. Some Senators agreed to hold that hearing on an expedited basis despite their opposition to the measure, on the understanding that it would be allowed to move through the normal authorization process. Now, before we have even had a chance to mark up the bill, it has been presented on the floor as an amendment to this unrelated defense supplemental bill. Our colleagues have not shown good faith by rushing this amendment to the floor.

Senators should not be in such a rush to suspend the Endangered Species Act. Their action today may lead to the loss, forever, of endangered plant and animal species. That loss would be tragic. We pledge to work in good faith to enact reforms of this Act, but we will not join in suspending it.

Those opposing the motion to table contended:

The Endangered Species Act is badly broken. In 1992 its authorization expired, but funding for its continued operations has nevertheless been provided. This continued funding is a mistake. It makes no sense to continue spending money on something that is causing tremendous damage. At a minimum we should pass the Hutchison amendment to stop this damage from growing during the remaining 6 months of this fiscal year.

The Endangered Species Act was passed in 1973 with the noble goal of saving threatened and endangered species from extinction. Its practical application, unfortunately, has been anything but noble. The zealots who administer it have callously created social and economic chaos among communities unfortunate enough to be located anywhere near a listed species. A few examples should serve to illustrate our point. In South Texas, the jaguar is about to be placed on the Endangered Species list, because one may have wandered up from Mexico during the Second World War. None has been seen since, but the EPA is still ready to restrict the property rights of people across several counties to protect these non-existent animals. In the Texas Panhandle, the EPA is ready to deny water rights to thousands of farmers and ranchers who have worked their land for generations, all to protect a baitfish.

Texas is certainly not the only State that is having problems. In California, a farmer was arrested and is facing a \$300,000 fine and a year in prison because he may have accidentally run over a Tipton kangaroo rat. (Tipton kangaroo rats, which are endangered, are identical to Herman rats, which are not, except that their feet are exactly 1 millimeter longer.) In the Pacific Northwest, as all Senators are aware, tens of thousands of loggers have lost their jobs because of the infamous spotted owl. Also in the Northwest, one regional power organization may soon go bankrupt because it has been forced to spend \$1.5 billion so far to save a variety of species of fish in the Columbian Snake River system.

Perhaps the most excessive recent abuse of this law that we have heard of is in New Mexico. The Navajo Dam on the San Juan River in New Mexico provides water and electricity to surrounding towns, supports local agriculture, and supports a local tourist industry for people who are drawn to the dam's lake for trout fishing. Unfortunately for the communities near the dam, an endangered species of minnow called the Colorado squawfish lives in the Colorado and San Juan Rivers, and a small number of them (never more than 30) have been found near the dam. The Government formed a committee to study how the squawfish might increase its numbers. The committee decided it would like to see what effect the historic, pre-dam flow of the San Juan River would have on these couple of dozen minnows. Accordingly, it recommended cutting the use of the water from that dam in half for 4 months in order to have enough water to emulate the natural, pre-dam flow. That proposal is still under consideration. Needless to say, local farmers and residents are not pleased with this proposal that will destroy their crops, give their towns inadequate water supplies, greatly increase the cost of electricity, and wipe out the tourist industry, all to study the effect of increased water flow on 2 dozen minnows.

Some Senators have asked us what our rush is, and have alleged that we have shown bad faith by bringing this amendment to the floor. The Hutchison amendment contains the text of a bill on which hearings were held two days ago, and they contend that we should therefore wait for that bill to reach the floor instead of voting for the Hutchison amendment. However, their claim that consideration of that bill has been expedited is questionable. We remind them that the Hutchison amendment only applies to fiscal year 1995 funds. Fiscal year 1995 ends September 30. We have tried to get hearings on the Endangered Species Act moratorium bill since January, but it took 2.5 months just to get to the hearing. Mark-up has not yet been held. If the Senate continues to drag its feet, there will not be much point in enacting a fiscal year 1995 moratorium, because the fiscal year will be over.

In the meantime the Endangered Species Act will have caused considerably more havoc with the callous enforcement of new listings. The concept of protecting species is admirable, but the process has run amok. We urge Senators to join us in stopping the process by passing the Hutchison amendment.